

REMARKS

I. INTRODUCTION

This paper is responsive to the Office Action of August 26, 2003, reconsideration of the subject application is respectfully requested. All pending claims 1-7, 10-18 and 21-47 stand rejected pursuant to 35 U.S.C. § 103(a) based on Liquidation.com, Food
5 Market Exchange and U.S. Patent Application Publication No. US 2001/0047323 A1 to Schmidt.

In the above Office Action an additional reference, U.S. Patent Application Publication No. US 2001/0047323 A1 to Schmidt, was required to be cited in order to overcome the arguments made by the applicant in the June 9, 2003 Preliminary
10 Amendment to the subject RCE application that traversed the then outstanding rejection of all of claims 1-7, 10-18 and 21-47 pursuant to 35 USC § 103(a) based on Liquidation.com and Food Market Exchange:

Neither Liquidation nor FME disclose seller to restrict data relating to buyers that are to be denied access to the goods. Schmidt teaches a system and method where
15 buyers can select a subset of sellers from whom they are willing to buy the product, and sellers can select a subset of buyers to whom they are willing to sell, a particular buyer can only be paired with a particular seller if both are
20 willing to be paired with each other. (August 26, 2003 Office Action, page 47).

Hence, the outstanding rejection is entirely predicated on the presumption that Schmidt is, in fact, prior art pursuant to 35 U.S.C. § 102(a)/ § 103(a). Applicant
25 incorporates by reference the attached Declaration of Daniel Wise Under 37 C.F.R. 1.131 (with supporting Exhibit 1 and Exhibit 2) and respectfully submits that the outstanding rejection of claims 1-7, 10-18 and 21-47 pursuant to 35 U.S.C. § 103(a) is hereby traversed by the removal of Schmidt as prior art.

II. THE WISE DECLARATION

30 As averred in the attached Declaration of Daniel Wise, Under 37 C.F.R. 1.131 ("Wise Declaration," herein) and in supporting Exhibit 1 and Exhibit 2, Mr. Wise is the named inventor of the subject matter described and claimed in the pending claims that are

directed to **“classifying the goods according to a pre-selected set of criteria including data relating to buyers that are to be denied access to the goods.”** Prior to the relevant date cited by the Examiner, March 11, 2001, the filing date of U.S. Patent Application Publication No. US2001/0047323 A1, to Schmidt, Mr. Wise conceived and diligently
5 reduced to practice **“classifying the goods according to a pre-selected set of criteria including data relating to buyers that are to be denied access to the goods”** as described and claimed in the above-identified patent application.

III. EXHIBIT 1

Specifically referring to Exhibit 1 of the Wise Declaration, the section thereof
10 entitled RESTRICTIONS reads as follows:

- Main Page – Add (after “once you are finished”): “We suggest that you limit the amount that you refine each restriction. You will be able to return to this page as many times as you like in order to add additional viewing
15 restrictions to your master list.”

- Type of Company –Add (after “..from seeing this listing”): “We recommend that you begin the process by checking one box only. You will be able to return to this screen later to choose another restriction by Trade Type.”

–Erase: “you can use more than one” and “you can use the following...”

- Retailers – Erase “Minimum/ Maximum number of stores” and everything from: “(provided you....) to “...further refine your restriction)

- Merchandise –Erase all instruction wording and replace with: “This feature allows you to restrict companies that sell a particular type of merchandise. You may use this feature to further refine the restriction you are currently working on or you may use this feature independently by coming back to it later.”
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- Geographical Region –Erase first sentence in the above the line portion and add wording: “This feature allows you to restrict companies from viewing this listing by where they are located. You may use this feature to further refine the restriction you are currently working on or you may use this feature independently by coming back to it later.”
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–then, new paragraph for the rest of the info.

- Company Name –erase wording above the line and replace with: “This feature allows you to restrict viewing access to companies by simply entering their corporate name. It is important to be as accurate as possible when
40

spelling the desired company name. We suggest that this feature is used independently or in conjunction with Geographical Region restrictions.”

-also: Company Name Withheld should read “Withhold Company Name(s): (use comma to separate)”

- Master Restriction List –erase “this is where...” and replace with “Your Restrictions for this Offering”

-at the top add: “This section allows you to add the restriction you have just completed, create another restriction, or erase a current restriction.”

-after Add to List button, write: “click here to add restriction to the list”

-Define another Restriction button should be called “Create New Restriction” –add beside it “click here to add another restriction”

-Remove from List –add beside it: “highlight restriction you are deleting, from list above, and click here.

IV. EXHIBIT 2

Specifically regarding Exhibit 2 of the Wise Declaration, this document in its entirety provides:

RESTRICTIONS

You are able to restrict which buyers may see your listing(s) by using General Information such as Type of Company, Product Categories sold, and Geographical Location. You may also restrict certain buyers by simply typing the Name of the Company(s) you wish to restrict.

You may select as many options as you wish and in any combination you would like. However, the more restrictions you impose, the more you will limit the number of bids you will receive on a particular item.

Would you like to restrict which buyers may view this listing? (Y/N)

(if ‘yes’)

Please make a selection by clicking on one of the options below. You will be able to make another selection once you are finished.

by GENERAL INFORMATION

Type of Company

Product Category

Geographical Region of Company

by NAME OF COMPANY

(if 'GENERAL INFORMATION')

RESTRICTION 1 –GENERAL INFORMATION

Type of Company

What types of company would you like to restrict from seeing this listing? You may choose more than one.

Retailers

Importers

Exporters

Wholesalers/ Distributors/ Jobbers

Manufacturers

(If seller restricts Retailers, they must answer the next question/ if not retailer –go straight to "Product Types" and "Geographical Location":

What type of RETAILER would you like to restrict? You may choose more than one:

Mass-Market/ Discounters, Drug Chains, Supermarkets/ Grocery, Specialty, Gift, Warehouse Club, Deep-Discounter, General Merchandiser, All

(If seller chooses mass market/ discounters, and drug chains):

Would you like to further restrict MASS-MARKET/ DISCOUNTERS, and DRUG CHAINS by the Number of Stores they have? (Y/N)

(if 'yes'):

MASS-MARKET/ DISCOUNTERS with more than 1000 stores may not see this listing. (please fill in number of stores)

DRUG CHAINS with more than 50 stores may not see this listing. (please fill in number of stores)

Product Category

Would you like to further restrict MASS-MARKET/ DISCOUNTERS WITH MORE THAN 1000 STORES and DRUG CHAINS WITH MORE THAN 50 STORES from seeing your listing(s) by the types of products they purchase? (Y/N)

(if 'yes', let them select from our list of our categories – they may select more than one/ if 'no', go to Geography)

Geographical Location

Would you like to restrict MASS.....MORE THAN 50 STORES by the geographical region in which they are located? For Retailers, the question would end, "...in which they're stores are located?" (Y/N)

(if 'yes', provide a list of check boxes: continents, countries, and if US, states and regions –northeast, northwest, southeast, southwest, west coast and east coast)

You have now finished Retail Restrictions. Would you like to go back and make another restriction by Type of Company? (Y/N)

(if 'yes' –go back to Type of Company –if they choose any other classification –they would then go directly to Product Category and then Geographical Location –they should continue to be asked if they are finished –if yes –go to master restriction list –they should also always be asked if they want to change anything)

(if they are finished and don't want to make any more changes –go to restriction by name)

You have now finished with the first Restriction Category. You may also restrict actual companies from seeing your listing(s) by entering the name(s) of the company(s) you wish to restrict in the box below. Please use a comma (,) or semicolon (;) to separate your selections.

Do you want to restrict by Name of Company? (Y/N)

(if 'yes' –go to box below/ if 'no' –go to master restriction list)

Master Restriction List

Here are your restrictions:

- No Mass-Market/ Discounter Retailers with more than 1,000 stores in the Northeast
- No Drug Chains Retailers with more than 50 stores
- No Children's Products Retailers
- No Children's Products Wholesalers/ Distributors/ Jobbers
- No Household Items Retailers in England

V. CONCLUSION

Exhibit 1 and Exhibit 2 thus corroborate Mr. Wise's averment that the invention described and claimed in the subject application was conceived and reduced to practice prior to the filing date of the Schmidt reference. More specifically, Exhibit 1 and Exhibit 2 are replete with examples of types of possible buyer restrictions, as well as the specific system, method, procedure and protocol required to implement the desired buyer restrictions, all before March 21, 2001.

For the reasons stated above, Applicant respectfully requests allowance of the subject invention.

CERTIFICATE OF MAILING

I hereby certify that the following mail is being deposited with the U.S. Postal Service, Post Office Addressee via First Class Mail addressed to Assistant Commissioner for Patents, Washington, DC 20231 on January 26, 2004

Sarah A. Marcano

Name of Person Depositing Mail

Sarah A. Marcano
Signature

Respectfully submitted,



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EXHIBIT 1

DATE REDACTED

HOME PAGE

- Welcome to LiquidXs.com...--add back in after "...sell surplus merchandise.": "LiquidXS.com saves time and money for our clients by offering a wide variety of door-to-door services and we strive to continually bring you a new and innovative experience every time you log on to our site." --then move it up a little so that everything fits on unscrollable page
- Add Contact Us button to left side navigation bar --ask Scott for list of different general email addresses (i.e. sale@liquidxs.com, careers@liquidxs.com, customerservice@liquidxs.com, info@liquidxs.com)
- "Browse our featured markets" should read "Browse our auctions"

LOGIN FEATURE

- The top line should read: "In order to use the extended features of the site and for your security, we ask that our users log on."
- I closed the browser, then I opened it again, and when I opened it I was still logged on as Admin

SEARCH

- "Where product is shipping from" (zip code, address, city) --how does it work because it doesn't --may be database issue
- Power Search -- two horizontal --layout is supposed to be vertical and generally doesn't look good with the line across between key word and power searches
- Keyword Search --as discussed, should scan 6 fields we spoke about

MEMBERS

- "Edit my Account" should look exactly like the REGISTRATION section, but it's still in the old format
- "Edit Profile" should look exactly like the REGISTRATION section, but it's still in the old format
- "Post New Items" --ALL CHANGES WE DISCUSSED
- Bidding --ALL CHANGES WE DISCUSSED

RESTRICTIONS

- Main Page -- Add (after "once you are finished"): "We suggest that you limit the amount that you refine each restriction. You will be able to return to this page as many times as you like in order to add additional viewing restrictions to your master list."
- Type of Company --Add (after "...from seeing this listing"): "We recommend that you begin the process by checking one box only. You will be able to return to this screen later to choose another restriction by Trade Type."
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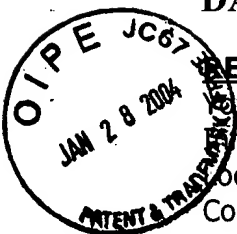
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REGISTRATION

- User Agreement –make sure it’s not too copied from other sites
 - take out tradeout
 - make sure we’re covered if restrictions don’t work
- **When I hit the register button (on left navigation), not being logged in of course, I try and accept the terms by clicking continue and a pop-up tells me that I’m missing the user name**
-

EXHIBIT 2

DATE REDACTED



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(if 'yes', let them select from our list of our categories –they may select more than one/
if 'no', go to Geography)

Geographical Location

Would you like to restrict MASS.....MORE THAN 50 STORES by the geographical region in which they are located? For Retailers, the question would end, "...in which they're stores are located?" (Y/N)

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